

Domestic Relations Committee
Judicial Conference of Indiana

Minutes
July 20, 2001

The Domestic Relations Committee of the Judicial Conference of Indiana met in Indianapolis, Indiana on Friday, July 20, 2001 from 10:30 a.m.-2:30 p.m. at the Indiana Judicial Center in Indianapolis.

1. Members present. Cynthia J. Ayers, Thomas J. Felts, E. Michael Hoff; Kathy R. Smith; William C. Whitman, and Lorenzo Arredondo, Acting Chair.
2. Staff present. Jeffrey Bercovitz provided the committee with staff assistance.
3. Guests present. Carol Branham; Mary Crean; Judge Susan Macey; Andrew Cosby, PACE and Robert Monday, PACE, were also present.
4. Minutes approved. The minutes for the meeting of the committee on April 20, 2001 were approved.
5. Mediation.
 - a. The committee members viewed a videotape entitled, "Alternative Dispute Resolution" submitted by Judge Ryan, Allen Circuit Court for review. The committee members found the video useful, and agreed it was a good job.
 - b. Judge Susan Macey made a presentation to the committee concerning mediation in family cases. She said some entity should pay for mediators as a "safety net" with clients paying something to get them motivated for mediation. She stated any mediation program should be sensitive to the private bar, especially if it is state sponsored. She said in order to evaluate the success of mediation, the number of cases resolved before trial by mediation should be reported to the State Court Administrator's Office, in addition to the reporting of referrals to mediation.
 - c. Mr. Bercovitz distributed a compilation of reports about all the mediation/facilitation programs in Indiana in which the committee heard presentations. The committee members agreed mediation is best in family law cases and the state must contribute resources in order to have mediation available to every judge.
 - d. Mr. Bercovitz distributed a memorandum outlining an application for a grant from the Child Support Bureau of the Indiana Family and Social Services Administration. The demonstration grant is for an academic study of the benefit of using mediation in dissolution and paternity cases. The committee agreed this study should be conducted large, medium and small counties. Marion and Tippecanoe counties should be used, along with other counties with little mediation. Cases should be selected at random at the initial filing of the dissolution or paternity case with half getting mediation and half receiving the normal treatment by the court, which may include mediation. Participation in this study may persuade the legislature to fund statewide mediation.
 - e. The committee discussed other ways to have funding for family law mediators: Use of senior judges previously suggested by the committee; \$1.00 added to the cost of filing every case; a requirement that, in order to maintain a certification as a family law mediator, a requirement be added for 2 pro bono cases each year. Other suggestions included the expansion of the Domestic Relations Counseling Bureau to hire a "facilitator" that would act as a "Friend of the Court" as is done in Michigan. Judge Ayres said the Marion County Domestic Relations

Bureau receives no state monies. Mr. Monday gave materials for distribution to the committee on state paid mediation in New Hampshire.

f. Mr. Bercovitz reported the Senior Judge Committee wishes to use mediation to count towards the 30 day requirement senior judges must meet to maintain their senior judge status. Mr. Jack Starke reported there were about 4000 senior judge days each year, paid for at the rate of \$50.00 per day. He said one must be certified as a senior judge and serve a minimum of 30 days each year to qualify for health and other state benefits. One may serve a maximum of 100 days in a year and still receive pay. He reported a senior judge served as court administrator in Marion County on a temporary basis (J. Wiles) and one served to work on the court budget and all county council meetings in Vanderburgh County. He stated about 80 judges are certified and about half serve 30 days a year.

The committee was interested in the use of senior judges as mediators in family law cases. They discussed whether they should be paid for this mediation and whether they should be required to be certified as family law mediators to do mediation as a senior judge. They agreed the Senior Judge Committee should consider and make recommendations concerning statutory, rule, Code of Judicial Conduct, and other ethical considerations in the use of Senior Judges to mediate family law cases.

6. Next meeting dates. The members of the committee agreed to meet again from 10:30 a.m. - 4:00 p.m. at the Indiana Judicial Center on Friday, August 17, September 12, and October 19, 2001, all from 10:30 a.m. - 4:00 p.m. at the Indiana Judicial Center except Sept. 12, which would be on Wednesday from 10:00 - 12:00 Noon in conjunction with the Judicial Conference. They agreed to meet on Friday, January 18, February 15, March 15, April 19, May 17, July 19 and August 16, 2002 from 10:30 a.m. – 4:00 p.m. at the Judicial Center

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law